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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/836,686	04/17/2001	Mark T. Gross	INTL-0556-US (P11214)	7180

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[REDACTED] EXAMINER

FLETCHER, MARLON T

[REDACTED] ART UNIT

[REDACTED] PAPER NUMBER

2837

DATE MAILED: 06/19/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/836,686	GROSS, MARK T.
	Examiner	Art Unit
	Marlon T Fletcher	2837

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 13 March 2002.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

4) Claim(s) 1-30 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-30 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____	6) <input type="checkbox"/> Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Abecassis (6,192,340), *in view of Bertis et al.*

As recited in claims 1 and 26, Abecassis discloses a portable device (100, 200), comprising:

an interface (106) to receive at least one file from another device as discussed in column 7, lines 23-42; and a controller (131) to be communicatively coupled to the interface, the controller to allow transfer of the file as discussed in column 7, lines 43-54.

As recited in claim 2 and 27, Abecassis discloses the portable device wherein the interface receives at least one file containing digital music as discussed in column 5, lines 40-48.

With respect to claims 6, 7, 11, 12, 16, 25, and 29, Abecassis discloses security system (453) for providing file security.

As recited in claim 8, Abecassis discloses the portable, wherein the interface receives the file from another portable device as discussed in column 10, lines 62-64.

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As recited in claim 10, 17, and 23, Abecassis discloses a method, comprising: selecting at least one music file from a first portable device to transfer to a second portable device as discussed in column 10, lines 50-64; transferring the music file to the second portable device as discussed in column 5, lines 40-48; and wherein the portable device may transfer the music file to one or more devices.

Abecasis does not disclose the use of a transfer count nor encryption of a file.

However, with respect to claims 1-5, 10, 13-15, 17-24, 28, and 30, Bertis et al. disclose a transfer count which can be embedded in a file to control and update a system based on the number of transferred files as discussed in the abstract and column 8, line 56 through column 9, line 17.

With respect to claims 6, 7, 11, 12, 16, 25, and 29, Bertis et al. disclose encrypt or secure files as discussed in column 7, lines 47-49.

With respect to claim 9, Bertis et al. disclose transfer of the files which comprises the transmission of a copy of the file as discussed in the abstract and column 8, line 56 through column 9, line 14.

It would have been obvious to one of ordinary skill in the art at the time of the invention to utilize the teachings of Bertis et al. with the apparatus of Abecassis, because the teachings provide enhancement by allowing the apparatus to count the transfer files and provide control over the transferring of files to other devices.

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3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following references provide transferring of files which include a count transfer and encryption for securing the file.

Haff et al. (6,219,669)

Toyosawa (6,317,793)

Response to Arguments

1. Applicant's response filed 03/13/2002 has been fully considered and acted on there upon.

The applicant request that the examiner provide references for the official notice taken in the previous office action. The examiner has provided a reference to substitute the official notice as discussed above.

2. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marlon T Fletcher whose telephone number is 703-308-0848. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Nappi can be reached on 703-308-3370. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7722 for regular communications and 703-308-7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.


Marlon T Fletcher
Primary Examiner
Art Unit 2837


June 17, 2002